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8       **UNITED STATES DISTRICT COURT**  
9                   **EASTERN DISTRICT OF CALIFORNIA**

10       RUSSEL BRUCE CLARK,

11                   Petitioner,

12               v.

13       WARDEN, FCI MENDOTA,

14                   Respondent.

15                   Case No. 1:24-cv-00211-KES-SAB-HC

16                   **ORDER REGARDING APPOINTMENT OF  
17                   COUNSEL AND REFERRING MATTER TO  
18                   FEDERAL PUBLIC DEFENDER'S OFFICE**

19                   **ORDER DIRECTING CLERK OF COURT  
20                   TO SERVE DOCUMENTS ON FEDERAL  
21                   PUBLIC DEFENDER'S OFFICE**

22                   **ORDER SETTING STATUS CONFERENCE**

23       Petitioner is a federal prisoner proceeding with a petition for writ of habeas corpus  
24       pursuant to 28 U.S.C. § 2241.

25       On March 27, 2025, the assigned district judge adopted findings and recommendations  
26       recommending that an evidentiary hearing be held on Ground One (failure to provide Petitioner  
27       with a copy of the Disciplinary Hearing Officer (“DHO”) report). (ECF No. 22.) The matter was  
28       referred to the Court to conduct the evidentiary hearing.

29       Rule 8 of the Rules Governing Section 2254 Cases<sup>1</sup> provides: “If an evidentiary hearing  
30       is warranted, the judge must appoint an attorney to represent a petitioner who qualifies to have  
31       counsel appointed under 18 U.S.C. § 3006A. The judge must conduct the hearing as soon as  
32       possible.” (Emphasis added.)

33       <sup>1</sup> The Rules Governing Section 2254 Cases apply to § 2241 habeas petitions. See Rule 1(b) of the Rules Governing  
34       Section 2254 Cases (“The district court may apply any or all of these rules to a habeas corpus petition not covered  
35       by” 28 U.S.C. § 2254.).

1 practicable after giving the attorneys adequate time to investigate and prepare.” Rule 8(c), Rules  
2 Governing Section 2254 Cases in the United States District Courts (“Habeas Rules”), 28 U.S.C.  
3 foll. § 2254.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The matter is referred to the Federal Public Defender’s Office to find counsel for  
6 Petitioner if Petitioner is financially eligible for appointment of counsel pursuant to 28  
7 U.S.C. § 3006A;
- 8 2. Within **thirty (30) days** of the date of service of this order,
  - 9 a. A notice of appearance shall be filed with the Court by the attorney representing  
10 Petitioner; or
  - 11 b. A notice shall be filed with the Court by the Federal Public Defender’s Office that  
12 Petitioner is not financially eligible for appointment of counsel;
- 13 3. The Clerk of Court is directed to serve a copy of this order on the Federal Public  
14 Defender’s Office; and
- 15 4. A status conference is set for May 13, 2025, at 9:30 a.m. for purposes of scheduling the  
16 evidentiary hearing and addressing any issues pertaining thereto.

17 IT IS SO ORDERED.

18 Dated: April 8, 2025



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20 STANLEY A. BOONE  
21 United States Magistrate Judge  
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